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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jeremy Frey,

10 Plaintiff,

11 v.

12 Allstate Law Firm PC, et al.,

13 Defendants.
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No. CV-22-01053-PHX-DJH

ORDER

15 Pending before the Court is Plaintiff Jeremy Frey's ("Plaintiff") Motion for
16 Alternative Service of Process and Extension of Time to Serve Defendants Rick Daniel
17 Adams and Jane Doe Adams ("Defendants"), which seeks the Court's leave to serve the
18 Complaint and Summons by alternate means (Doc. 7). Good cause appearing, the Court
19 will grant Plaintiff's Motion. (*Id.*)

20 The Federal Rules of Civil Procedure do not explicitly authorize service by mail,
21 but they do allow service to be made in accordance state law for the "courts of general
22 jurisdiction in the state where the district court is located" Fed. R. Civ. P. 4(e). In
23 Arizona, if a party shows that personal service on an individual is "impracticable, the court
24 may—on motion and without notice to the person to be served—order that service may be
25 accomplished in another manner." Ariz. R. Civ. P. 4.1(k)(1). A party claiming service is
26 impracticable due to another's evasion must set forth specific facts attesting to the evasive
27 behavior. *See Arizona Real Est. Inv., Inc. v. Schrader*, 244 P.3d 565, 567 (Ariz. Ct. App.
28 2010). "Impracticable does not mean impossible, but rather that service would be

1 ‘extremely difficult or inconvenient.’” *Bank of New York Mellon v. Dodev*, 246 Ariz. 1,
2 10 (Az. Ct. App. 2018).

3 Plaintiff represents his process server Mark Hepp (“Hepp”) has made multiple
4 attempts of serving Defendants, including a phone conversation with Defendant Adams to
5 coordinate service. (Doc. 7-1 at 3). Plaintiff believes that Defendants are avoiding service.
6 On July 12, 2022, the first attempt at service, Hepp avers he arrived at the Allstate Law
7 Firm, but it appeared vacated. (*Id.*) On July 13, 2022, Hepp called the firm and believed
8 he spoke with Defendant Adams, but Defendant abruptly ended the call after Hepp
9 informed him that he tried to “deliver something and found the door locked.” (*Id.*) During
10 the next two service attempts, on July 14, 2022, Hepp returned to the address and the door
11 was locked and suite empty. (*Id.*) Hepp made five additional attempts all to no avail,
12 including another phone conversation with Defendant Adams where Adams confirmed he
13 would be at the office. (*Id.*) Upon arrival, the door was locked and Hepp received no
14 answer to his knocks. (*Id.*)

15 Given these circumstances, the Court finds continued efforts to serve Defendants in
16 this manner would be impracticable. *See Bank of New York Mellon*, 246 Ariz. at 10
17 (finding an affidavit of non-service demonstrating five attempts to serve defendant at
18 different times of the day was sufficient to show personal service was impracticable).

19 “[I]f the plaintiff shows good cause for the failure, the court must extend the time
20 for service for an appropriate period.” Fed. R. Civ. P. 4(m). Here, Plaintiff has made
21 numerous attempts to serve Defendants. Despite diligent efforts, Hepp has been unable to
22 effectuate service on Defendants Rick Daniel Adams and Jane Doe Adams. The Court will
23 accordingly grant Plaintiff’s request to extend the service deadline by 30 days.¹

24 Accordingly,


25 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Alternative Service
26 (Doc. 7) is **granted**. Plaintiff shall serve the Verified Complaint and Summonses on
27 Defendants Rick Daniel Adams and Jane Doe Adams via First Class Mail, Certified Mail,

28 ¹ The Court notes Plaintiff’s Motion initially requests a 60-day extension and then 30 days.
(Doc. 7 at 7–8).

1 and by posting a copy at the following address: 4776 S. Lakeshore Dr., Ste. 7, Tempe, AZ
2 85282. Plaintiff shall also serve the Verified Complaint and Summonses on Defendants
3 Rick Daniel Adams and Jane Doe Adams via the email address the receptionist provided
4 to Mr. Hepp for Defendant Rick Daniel Adams. (Doc. 7-1 at 3). Plaintiff shall file a Notice
5 of Executed of Service with the Court within a reasonable time after service is effectuated.

6 **IT IS FURTHER ORDERED** that Plaintiff may have through and including
7 December 18, 2022, within which to serve Defendants Rick Daniel Adams and Jane Doe
8 Adams with the Complaint and Summonses in this matter.

9 Dated this 18th day of November, 2022.

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12 Honorable Diane J. Humetewa
13 United States District Judge
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